

### **REMARKS**

Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow.

With this Amendment, claims 1-5 and 8 have been amended; no claims have been canceled; and, claims 9-25 are new. A detailed listing of all claims that are, or were, in the Application, irrespective of whether the claims remain under examination in the Application, is presented, with appropriately defined status identifiers. Thus, claims 1-25 remain pending in the Application.

Support for the amendments to claims 1-3 and 5 can be found in the disclosure in at least the following: Claims 1 and 8 - Examples 1 to 5; claim 2 - original claim 1; claim 3 - original claim 2; and claim 5 - in paragraph [0020] of U.S. Pub. 20070226979, (the '979 publication), which is the U.S. Publication of the present application.

Support for new claims can be found in the specification as follows: Claim 9 by the disclosure in original claim 3 of the specification; claim 10 by the disclosure in Examples 1-5 of the specification; claim 11 in Example 1 of the specification; claim 12 by the disclosure in Example 1 of the specification; claim 13 by the disclosure in Example 2 of the specification; claim 14 by the disclosure in Example 2 of the specification; claim 15 by the disclosure in Example 5 of the specification; claim 16 by the disclosure in example 5 of the specification; claim 17 by the disclosure in Example 5 of the specification; claim 18 by the disclosure in paragraph [0018] of the '979 publication and by the disclosure in U.S. Pat. No. 6,325,868 (the '828 patent), incorporated by reference by the disclosure in paragraph [0018] of the '979 publication; claim 19 by the disclosure in paragraph [0016] of the '979 publication; claim 20 by the disclosure in paragraph [0018] of the '979 publication; claim 21 by the disclosure in column 4, lines 15-16 of the '828 patent; claim 22 by the disclosure in column 4, lines 10-11 of the '828 patent; claim 23 by the disclosure in column 2, lines 33-48 of the '828 patent; claim 24 by the disclosure in Table 2 in column 6, line 52 to column 7, line 40 of the '828 patent; and claim 25 by the disclosure in column 2, lines 49-62 of the '828 patent.

No new matter has been added.

**Objection to the Specification**

The outstanding Official Action has objected to the specification due to informalities, specifically that the word "to" should be inserted after "subjected" on page 2, line 16. Applicants have herein amended the specification to this end. Accordingly, the objection to the specification has now been rendered moot, and Applicants respectfully request the Examiner withdraw said objection.

**Claims rejections under 37 C.F.R. § 102**

The outstanding Official Action has rejected claims 1-7 under 35 U.S.C. § 102 as allegedly being anticipated by Scruggs et al. (WO 97/20601, hereinafter Scruggs).

This rejection is respectfully traversed.

Scuggs fails to disclose "[a]n exterior surface treated article comprising a bulk-solidifying amorphous alloy having a mechanically treated exterior surface and having improved durability and fatigue resistance over a similar article without said mechanically treated exterior surface, the mechanically treated exterior surface comprising a plurality of deformations in the exterior surface" as recited in claim 1. Furthermore, claim 1 is no longer is a product-by-process claim. Therefore, the Examiner is requested to give patentable weight to each and every element and limitation of the claim.

The outstanding Official Action has rejected claims 1-4, 6, and 7 under 35 U.S.C. § 102 as allegedly being anticipated by Opie et al. (U.S. Patent Publication No. 2006/0149391, hereinafter Opie).

This rejection is respectfully traversed.

Opie fails to disclose "[a]n exterior surface treated article comprising a bulk-solidifying amorphous alloy having a mechanically treated exterior surface and having improved durability and fatigue resistance over a similar article without said

mechanically treated exterior surface, the mechanically treated exterior surface comprising a plurality of deformations in the exterior surface" as recited in claim 1. Furthermore, claim 1 is no longer is a product-by-process claim. Therefore, the Examiner is requested to give patentable weight to each and every element and limitation of the claim.

### **Claims rejections under 35 U.S.C. § 103**

The outstanding Official Action has rejected claim 8 under 35 U.S.C. § 108 as allegedly being unpatentable over Sano et al. (U.S. Patent No. 6,638,577, hereinafter Sano), in view of Scuggs.

This rejection is respectfully traversed.

Both Sano and Scuggs fail to disclose an "exterior surface treated article ... wherein the article has an improved durability and fatigue resistance over a similar article without said mechanically treated exterior surface" as recited in claim 8. Thus, Sano and Scuggs fail to teach or suggest the invention of claim 8 *as a whole*.

The Examiner states on page 5, section 8, paragraph 2, of the Action: "Sano et al discloses a method of surface treating an article made from amorphous alloy by applying a shot-peening process on the surface of the article (col. 2, lines 66-67 and col. 3, lines 1-5)." Then the Examiner states on page 5, section 8, paragraph 2, of the Action: "Sano et al. does not specifically disclose the article being made from a bulk-solidifying amorphous alloy ... ." Applicants respectfully submit that above two statement are not self consistent – the first statement states that **Sano discloses** a method of surface treating an article made from amorphous alloy while the second statement states that **Sano does not disclose** the article being made from a bulk-solidifying amorphous alloy. Also, a careful review of Sano shows that Sano relates to painting a golf head and that col. 2, lines 66-67 and col. 3, lines 1-5 of Sano relate to preparing the surface of the golf head prior to painting. The steps disclosed in col. 2, lines 66-67 and col. 3, lines 1-5, of Sano have nothing to do with the claimed method for treating an article for improving the durability and fatigue resistance of the article, and

there is simply no evidence whatsoever in Sano that Sano's article after shot-peening "has an improved durability and fatigue resistance over a similar article without said mechanically treated exterior surface" as recited in claim 8.

### **CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance. The Director is authorized to charge any fees necessary and/or credit any overpayments to Deposit Account No. 03-3975, referencing Docket No. 069648-0388438.

Respectfully submitted,

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